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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,130	04/02/2004	John Scott Heuvel	049220-9005-00	1491

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EXAMINER

GORDON, STEPHEN T

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/817,130	Applicant(s) HEUVEL ET AL.	
	Examiner Stephen Gordon	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2005.
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
 4a) Of the above claim(s) 10-26 is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-9 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 02 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8-9-04 & 5-31-05</u> | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Applicant's election with traverse of group I in the reply filed on 8-31-05 is acknowledged. The traversal is on the ground(s) that the claims as grouped are so closely related that undue burden is not present. This is not found persuasive because the claims are deemed to define sufficiently divergent subject matter/scope that restriction is warranted.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 10-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention. Applicant timely traversed the restriction (election) requirement in the reply filed on 8-31-05.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: axis 130 – page 6. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The disclosure is objected to because of the following informalities: on page 5 – line 10, both occurrences of “58” should be –54—(i.e. 2 places total). On page 5 – line 17, “forward” is misspelled. On page 8 – line 30, “126” should be –134--. On page 11 – line 30, “58” should be –54--. On page 2, line 4 is generally awkward. If the term –load- - were inserted after “oversized” on line 4, the specification would be correct in this regard.

Appropriate correction is required.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Giles.

Giles teaches a support structure for a transport vehicle including a frame base 32+, a stanchion 24,28+, and a cylindrical roller 20.

Regarding claim 1, the roller is capable of performing the recited function as broadly claimed. Additionally, in as much as the concrete section per se is not a positively recited element of the instant claimed combination, the functional/positional language relating thereto is given little patentable weight.

Claim 2, note the first and second end rollers on the shaft through the opening in element 22 – figure 1 etc.

Claim 7, element 34 reads on the first bearing pad as broadly claimed.

Claim 8, element 36 reads on the second bearing pad and is deemed removable as broadly claimed.

Claim 9, the elongate passages underneath elements 24 define passages as broadly claimed and could receive forks of a fork device. Note also, in as much as the fork device per se is not a positively recited element of the instant claimed combination, the functional/positional language relating thereto is given little patentable weight.

7. Claims 1, 3, and 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson.

Johnson (figure 3) teaches a support structure for a transport vehicle including a frame base 46+, a stanchion 56,58+, and a cylindrical roller 70.

Regarding claim 1, the roller is capable of performing the recited function as broadly claimed. Additionally, in as much as the concrete section per se is not a positively recited element of the instant claimed combination, the functional/positional language relating thereto is given little patentable weight.

Regarding claim 3, note the roller assembly pivot as shown in phantom in figure 3.

Claim 5, the device is configured as broadly claimed.

Claim 6, note the angle represented in figure 3 is about 10 degrees as broadly claimed.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson.

Claim 4, Johnson teaches all of the claimed features as discussed regarding claim 1 above but fails to specifically teach use of a spherical bearing for connecting the roller. Spherical bearings per se are known in the art. In order to provide more system flexibility by allowing more pivot directions, it would have been obvious to one of ordinary skill in the art to replace the single axis roller pivot of Johnson with a spherical bearing pivot in view of known art practices.

Claim 6, Johnson teaches all of the claimed features as discussed above regarding claim 6 in the section 102 rejection. Additionally as noted above, Johnson teaches a pivot angle of about 10 degrees as noted above – note figure 3 phantom lines. If the angle taught by Johnson is not deemed to define about 10 degrees, then the following applies. The exact pivot angle of the roller assembly would be driven by a desired amount of adjustability of the rollers for a given application. Specific recitation of a pivot


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angle of about 10 degrees in this case then would not define a patentably distinct departure from the teachings of Johnson.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note Sasaki et al teaches a spherical bearing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (571) 272-6661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 9-12-05
Stephen Gordon
Primary Examiner
Art Unit 3612

stg